IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
Writ Petition No.2384 of 2006

Ramesh R Badi .. Petitioner

vs

Union of India and ors.. respondents

Nr R R Badi petitioner in person
Mr. P I Khemani AGP for State
Mr V.S.Masurkar with Ms M V Masurkar for respondent no.l

CORAM:V.G.PALSHIKAR AND

V.R.KINGAOKAR JJ.

DATED l0.4.2006

P.C.

l. By this petition the petitioner, who projects himself as a citizen of Kolhapur, devoted to better welfare of the society and self proclaimed safeguard of public property, seeks, in the public interest,ll prayers, which we will note later on. He has joined the Union of India as respondent no.l, State of Maharashtra as respondent no.2, Reserve Bank of India as respondent no. 3, Home Secretary, Home Department presumably of the Government of Maharashtra, as respondent no. 4, Collector presumably Revenue Collector of Kolhapur as respondent no. 5, The District Deputy Registrar of Coop Societies, Kolhapur as respondent no. 6 and Kolhapur District Central Coop Bank Ltd Kolhapur as respondent no. 7.

2. Various allegations have been made in the petition as also verbally during his submission made before us that the management of the Kolhapur District Central Coop Bank is in the hands of some Ministers and MLAs, who have been manipulating and manoeuvring the elections so as to keep control over the District Central Coop Bank Kolhapur and use this bank for converting their ill earned money (popularly known as black money) through the said District Central Coop Bank Kolhapur. The prayers made in the petition make an interesting reading. They read as under:

> (l) The economic offence being of proceeds of crime, which is presently in the hands of CID into the said crime of KDCC Bank be withdrawn and handed over to Directorate of Revenue Intelligence or CBI or Enforcement Directorate to prevent further crimes in KDCC Bank.
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> 2) The entire criminal fraud into the financial transactions of KDCC Bank may please be investigated and detected by the intelligence of Reserve Bank of India.

3) The entire nexus of those elected directors present and previous and present contestants be investigated about their financial position through Enforcement Directorate or Income Tax vigilance.

4) The proper Administrative Authority over the KDCC Bank may please be appointed to control the KDCC Bank's administration for fair practice or money lending to protect Government's interest and public money.

5) The writ in the nature of mandmus be commended that the election of KDCC Bank which is to be held on 3.4.2006 may please be withheld/ stayed, in the interest of public at large and Government as public money is under threat and above all the economic offence by executives will not be detected, if elections are not stayed, as fair assistance to the investigating agencies is required. It is also necessary to prevent any such compromise election, who are trying to screen and shield the economic fraud to forego once for all.

6) The election of the KDCC Bank be declared

against the interest of government of India and public at large.

7) That the KDCC being head bank in the district working under Coop Societies Act has become a controlling meeting box for the politicians to effect their intent and therefore the said KDCC Bank is required to be controlled by Administrator that appointed by the Reserve Bank of India, instead of political heads, to prevent financial crimes as the said bank has become special pecuniary interest for the politicians.

8) The writ may please be issued for bringing up the record of CID, the Dy Joint Registrar, Collector, and investigation, made against the accused/ and statement of witnesses, into criminal fraud.

9) Interim and or ad interim relief in terms of prayer nos l,2,3,5 may please be granted to prevent eminent threat.

l0) Cost of this petition be provided for

ll) Any other such order may please be granted that deems fit and proper into the facts and circumstances of the present case.

3. By the first prayer it is contended that the investigation should be conducted only by CBI as the alleged fraud, if any, is more than Rs.2.5 crores. Why the investigation conducted by the CID department is not enough or proper is not stated.

4. The second prayer is that the entire criminal fraud into the financial transaction of the KDCC Bank may be investigated and detected by the intelligence wing of Reserve Bank of India. A complaint to the Reserve Bank of India is the proper remedy, which the petitioner may or may not have perused. No such direction can issue on such allegation which have no factual basis.

5. The third prayer was that the entire actions of those elected directors present and previous and present contestants be investigated about their financial position through Enforcement Directorate or Income Tax department. This omnibus prayer does not make out any case for interference. Apart from that none of those elected directors, present or

past and none of the contestants have been made parties to this petition. No order for such investigation can be made in the absence of persons, against whom such wild and baseless allegations are made.

6. The next prayer prays for appointment of an administrator on the Kolhapur District Central Coop Bank. The Maharasthra Coop Societies Act, l960 has adequate provisions to take care of erring Central Coop Banks. All remedies available under the said Act can be perused and perused. Directly moving writ jurisdiction under Art 226 of the Constitution is certainly not the remedy.

7. By the next prayer it is sought that the election of the Kolhapur District Central Coop Bank scheduled to be held on 2.4.2006 be withheld or stayed in public interest and it may be declared as non est. The proper remedy to any person who is aggrieved by such mal-practice, if any, in elections process is the remedy of moving the appropriate forum provided under the said Act for setting aside such elections. A writ petition directly to this court for exercising powers under Art 226 can never be the remedy. It is also prayed that the election to the KDCC Bank be declared as

against the interest of the Government of India and public at large. Except those residing under the jurisdiction of Kolhapur District,who may have any grievance raised in it, is not concerned with such happenings and several remedies are available to deal with unsecured situation, if it really exists.

8. Thereafter prayer no.(7) speaks of the head bank of respondent no. 7 being used as controlling meeting box for the politicians to effect their intent and therefore the said KDCC bank is required to be controlled by an administrator to be appointed by the Reserve Bank of India. The proper and only remedy is to make a complaint to the Reserve Bank of India on such facts, which may, if proved, give rise to appropriate action by the Reserve Bank of India.

9. The petitioner has also the remedy available of criminal complaint against the erring officials under the appropriate provisions of the Indian Penal Code or other penal legislations legislated for such purposes. A writ petition, without naming the persons, certainly is not the remedy.

l0. Before we part with this case we must note albit sadly that filing of public interest

litigation under bonafide garb of doing something in public interest is on the rising. Prayers of the kind quoted above are made without basic requirement of pleadings and joinder of necessary parties are not observed and in the matter of public interest, valuable time of the courts is required to be wasted. Such tendency, we hope and trust, would be effectively curbed by awakening the public opinion by persons responsible for proper development of the society. Petition is dismissed.

(V.G.Palshikar J)

(V.R.Kingaokar J)